

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

## CORNAIL HILL,

**Defendant.**

**CASE NO. 8:08CR443**

# MEMORANDUM AND ORDER

This matter is before the Court on the Defendant's appeal (Filing No. 19) from the Magistrate Judge's order of detention (Filing No. 17).

The danger prong of the Bail Reform Act of 1984, 18 U.S.C. §§3141-3156, is implicated when a strong probability exists that a person will commit additional crimes if released and there are no conditions of release or combination of conditions that will reasonably assure that future crimes will not be committed and, accordingly, the safety of the community is at risk. 18 U.S.C. § 3142(e). A rebuttable presumption favoring detention exists when the prosecution involves a drug crime in which the maximum sentence is ten years or more, which is the case here. 18 U.S.C. § 3142(e) & (f)(1)(C). In addition to the factors set out in 18 U.S.C. § 3142(g), other factors that may be considered by a court when determining such probability include whether the defendant engaged in drug dealing before the time period alleged in the indictment; and whether a personal characteristic, such as lack of employment, gives the defendant a reason to resume drug dealing activities.

Judge Gossett detained Hill on the bases of both flight risk and danger to the community.

This Court cannot conduct a de novo review under NECrimR 46.2(c) because the complete record, i.e. a transcript of the detention hearing held before Judge Gossett (Filing No. 15), has not been presented to this Court. The audio file (Filing No. 18) does not satisfy the Defendant's burden to present a complete record. Therefore, the appeal is denied without prejudice.

IT IS ORDERED:

1. The Defendant's appeal from the Magistrate Judge's detention order (Filing No. 19) is denied without prejudice; and
2. The Magistrate Judge's detention order (Filing No. 17) is affirmed.

DATED this 2<sup>nd</sup> day of February, 2009.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge